

**ASSEMBLY BILL**

**No. 1759**

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**Introduced by Assembly Member Fletcher**

February 17, 2012

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An act to amend Section 11489 of the Health and Safety Code, relating to controlled substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1759, as introduced, Fletcher. Controlled substances: seizure and forfeiture of property.

Existing law provides for the seizure and forfeiture of property in connection with specified violations of law relating to controlled substances, including possession of a controlled substance for sale. Existing law requires the proceeds of property that is seized, forfeited, and sold by the Department of General Services or a local governmental entity to be distributed first to the innocent purchaser, conditional sales vendor, or mortgagee of the property, if the court orders distribution to that person, with the balance payable to the department or local governmental entity for expenditures relating to the sale of the property. Any remaining funds are then allocated, by percentage, to state and local law enforcement agencies that participated in the seizure, the prosecutorial agency that processed the forfeiture action, the General Fund in the State Treasury, and to eligible nonprofit organizations.

This bill would make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11489 of the Health and Safety Code is amended to read:

11489. Notwithstanding Section 11502 and except as otherwise provided in Section 11473, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the Department of General Services or local governmental entity, the money forfeited or the proceeds of sale shall be distributed by the state or local governmental entity as follows:

(a) To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of his or her interest in the property, when the court declaring the forfeiture orders a distribution to that person.

(b) The balance, if any, to accumulate, and to be distributed and transferred quarterly in the following manner:

(1) To the state agency or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary costs of notice required by Section 11488.4, and for any necessary repairs, storage, or transportation of any property seized under this chapter.

(2) The remaining funds shall be distributed as follows:

(A) Sixty-five percent to the state, local, or state and local law enforcement entities that participated in the seizure distributed so as to reflect the proportionate contribution of each agency.

(i) Fifteen percent of the funds distributed pursuant to this subparagraph shall be deposited in a special fund maintained by the county, city, or city and county of any agency making the seizure or seeking an order for forfeiture. This fund shall be used for the sole purpose of funding programs designed to combat drug abuse and divert gang activity, and shall wherever possible involve educators, parents, community-based organizations and local businesses, and uniformed law enforcement officers. Those programs that have been evaluated as successful shall be given priority. These funds shall not be used to supplant any state or local funds that would, in the absence of this clause, otherwise be made available to the programs.

It is the intent of the Legislature to cause the development and continuation of positive intervention programs for high-risk

1 elementary and secondary schoolage students. Local law  
2 enforcement should work in partnership with state and local  
3 agencies and the private sector in administering these programs.

4 (ii) The actual distribution of funds set aside pursuant to clause  
5 (i) is to be determined by a panel consisting of the sheriff of the  
6 county, a police chief selected by the other chiefs in the county,  
7 and the district attorney and the chief probation officer of the  
8 county.

9 (B) Ten percent to the prosecutorial agency ~~which~~ *that* processes  
10 the forfeiture action.

11 (C) Twenty-four percent to the General Fund. Notwithstanding  
12 Section 13340 of the Government Code, the moneys are hereby  
13 continuously appropriated to the General Fund. Commencing  
14 January 1, 1995, all moneys deposited in the General Fund pursuant  
15 to this subparagraph, in an amount not to exceed ten million dollars  
16 (\$10,000,000), shall be made available for school safety and  
17 security, upon appropriation by the Legislature, and shall be  
18 disbursed pursuant to Senate Bill 1255 of the 1993–94 Regular  
19 Session, as enacted.

20 (D) One percent to a private nonprofit organization composed  
21 of local prosecutors which shall use these funds for the exclusive  
22 purpose of providing a statewide program of education and training  
23 for prosecutors and law enforcement officers in ethics and the  
24 proper use of laws permitting the seizure and forfeiture of assets  
25 under this chapter.

26 (c) Notwithstanding Item 0820-101-469 of the Budget Act of  
27 1985 (Chapter 111 of the Statutes of 1985), all funds allocated to  
28 the Department of Justice pursuant to subparagraph (A) of  
29 paragraph (2) of subdivision (b) shall be deposited into the  
30 Department of Justice Special Deposit Fund–State Asset Forfeiture  
31 Account and used for the law enforcement efforts of the state or  
32 for state or local law enforcement efforts pursuant to Section  
33 11493.

34 All funds allocated to the Department of Justice by the federal  
35 government under its Federal Asset Forfeiture program authorized  
36 by the Comprehensive Crime Control Act of 1984 may be  
37 deposited directly into the Narcotics Assistance and  
38 Relinquishment by Criminal Offender Fund and used for state and  
39 local law enforcement efforts pursuant to Section 11493.

1 Funds~~—which~~ *that* are not deposited pursuant to the above  
2 paragraph shall be deposited into the Department of Justice Special  
3 Deposit Fund—Federal Asset Forfeiture Account.

4 (d) All the funds distributed to the state or local governmental  
5 entity pursuant to subparagraphs (A) and (B) of paragraph (2) of  
6 subdivision (b) shall not supplant any state or local funds that  
7 would, in the absence of this subdivision, be made available to  
8 support the law enforcement and prosecutorial efforts of these  
9 agencies.

10 The court shall order the forfeiture proceeds distributed to the  
11 state, local, or state and local governmental entities as provided in  
12 this section.

13 For the purposes of this section, “local governmental entity”  
14 means any city, county, or city and county in this state.

15 (e) This section shall become operative on January 1, 1994.